109TH CONGRESS 1ST SESSION

H.R.3379

To amend part E of title IV of the Social Security Act to promote safe and permanent homes for foster children.

IN THE HOUSE OF REPRESENTATIVES

July 21, 2005

Mr. Davis of Illinois introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend part E of title IV of the Social Security Act to promote safe and permanent homes for foster children.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 SECTION 1. SHORT TITLE.
- 4 This Act may be cited as the "Stronger Families
- 5 Act".
- 6 SEC. 2. FINDINGS.
- 7 The Congress finds the following:
- 8 (1) By enacting the Adoption and Safe Families
- 9 Act of 1997 (Public Law 105–89) and the Adoption
- 10 Assistance and Child Welfare Act of 1980 (Public

- Law 96–272), the Congress recognized the need to align Federal incentives with the desired goal of providing abused and neglected children safe, permanent homes.
 - (2) According to the nonpartisan Pew Commission on Children in Foster Care composed of former Members of Congress of both parties and other child welfare experts, between 1997 and 2002, adoptions increased by 64 percent, and each state, the District of Columbia, and Puerto Rico has earned an award for increasing adoptions.
 - (3) Adoption represents only one avenue to permanency for children in the foster care system, affecting only 9 percent of children in foster care in 2003. Adoption is not a viable option for many children in foster care. Children living with relatives are less likely to use adoption, and courts explicitly rule out this permanency option for thousands of children each year.
 - (4) Moreover, adoption is not equally available to children of all races and ethnicities. African-American children live in kinship care arrangements more than in other types of care arrangements and have a lower rate of adoption than other children,

- 1 making reunification and legal guardianship impor-2 tant permanency options for this population.
 - (5) Reunification and guardianship are central avenues by which any child in foster care may enter stable, caring homes. In 2002, 54 percent of children in foster care were reunified with their parents and 4 percent obtained legal guardianship.
 - (6) Moreover, Federal guidelines create a financial disincentive to legal guardianship because all Federal support ceases once guardianship is established, presenting an overwhelming hardship for caretakers given the known health and mental health problems of children who have been in foster care. Research indicates that 30 to 40 percent of youth in foster care experience chronic medical problems.
 - (7) To help meet the needs of foster children with special needs who are adopted, approximately \$308 per month in Federal funds is provided to their adoptive families. The Federal Government pays approximately \$383 per month to cover all adoption assistance program costs, including monthly payments to families, administration, and training.
 - (8) Remaining in foster care when stable, permanent homes are available places unnecessary bur-

- dens on States, caseworkers, and families, requiring
- 2 regular court appearances, quarterly case reviews,
- 3 monthly caseworker visits, and government involve-
- 4 ment in routine family activities and decisions.

5 SEC. 3. PERMANENCY INCENTIVE PAYMENTS.

- 6 (a) IN GENERAL.—Section 473A of the Social Secu-
- 7 rity Act (42 U.S.C. 673a) is amended to read as follows:
- 8 "SEC. 473A. PERMANENCY INCENTIVE PAYMENTS.
- 9 "(a) Grant Authority.—Subject to the availability
- 10 of such amounts as may be provided in advance in appro-
- 11 priations Acts for this purpose, the Secretary shall make
- 12 a grant to each State that is an incentive-eligible State
- 13 for a fiscal year in an amount equal to the permanency
- 14 incentive payment payable to the State under this section
- 15 for the fiscal year, which shall be payable in the imme-
- 16 diately succeeding fiscal year.
- 17 "(b) Incentive-Eligible State.—A State is an in-
- 18 centive-eligible State for a fiscal year if—
- 19 "(1) the State has a plan approved under this
- 20 part for the fiscal year;
- 21 "(2)(A)(i) the foster child adoption rate for the
- 22 State for the fiscal year exceeds the base foster child
- adoption rate for the State for the fiscal year; or

1	"(ii) the older child adoption rate for the State
2	for the fiscal year exceeds the base older child adop-
3	tion rate for the State for the fiscal year;
4	"(B)(i) the guardianship placement rate for the
5	State for the fiscal year exceeds the base guardian-
6	ship placement rate for the State for the fiscal year;
7	or
8	"(ii) the older child guardianship placement
9	rate for the State for the fiscal year exceeds the base
10	older child guardianship placement rate for the
11	State for the fiscal year; or
12	"(C) the reunification rate for the State for the
13	fiscal year exceeds the base reunification rate for the
14	State for respect to the fiscal year;
15	"(3) the State is in compliance with subsection
16	(c) for the fiscal year;
17	"(4) the State provides health insurance cov-
18	erage to any child with special needs (as determined
19	under section 473(c)) for whom there is in effect—
20	"(A) an adoption assistance agreement be-
21	tween a State and the adoptive parent or par-
22	ents of the child; or
23	"(B) a guardianship agreement between a
24	State and the legal guardian or guardians of
25	the child; and

1	"(5) the fiscal year is fiscal year 2006 or 2007.
2	"(c) Data Requirements.—
3	"(1) In general.—A State is in compliance
4	with this subsection for a fiscal year if the State has
5	provided to the Secretary the data described in para-
6	graph (2)—
7	"(A) for fiscal years 2004 and 2005 (or, if
8	the 1st fiscal year for which the State seeks a
9	grant under this section is after fiscal year
10	2006, the 2 fiscal years most immediately pre-
11	ceding such 1st fiscal year); and
12	"(B) for each fiscal year that succeeds the
13	2 fiscal years specified or referred to in sub-
14	paragraph (A) and that precedes the fiscal year
15	referred to in this paragraph in the matter pre-
16	ceding subparagraph (A).
17	"(2) Determination of Permancy Place-
18	MENT RATES BASED ON AFCARS DATA.—The Sec-
19	retary shall determine the rates of each type of
20	adoption, guardianship placement, and reunification
21	described in this section in each State with respect
22	to each of fiscal years 2006 and 2007 on the basis
23	of data meeting the requirements of the system es-
24	tablished pursuant to section 479, as reported by the

1	State and approved by the Secretary by August 1 of
2	the succeeding fiscal year.
3	"(3) No waiver of afcars requirements.—
4	This section shall not be construed to alter or affect
5	any requirement of section 479 or of any regulation
6	prescribed under such section with respect to report-
7	ing of data by States, or to waive any penalty for
8	failure to comply with such a requirement.
9	"(d) Permanency Incentive Payment.—
10	"(1) In general.—Except as provided in para-
11	graph (2), the permanency incentive payment pay-
12	able to a State for a fiscal year under this section
13	shall be equal to the sum of—
14	"(A) \$3,000, multiplied by the amount (if
15	any) by which the sum of the number of foster
16	child adoptions, the number of guardianship
17	placements, and the number of reunifications
18	for the State for the fiscal year exceeds the sum
19	of—
20	"(i) the number of foster child adop-
21	tions for the State for the fiscal year mul-
22	tiplied by the base foster child adoption
23	rate for the State for the fiscal year;
24	"(ii) the number of guardianship
25	placements for the State for the fiscal year

1	multiplied by the base guardianship place-
2	ment rate for the State for the fiscal year;
3	and
4	"(iii) the number of reunifications for
5	the State for the fiscal year multiplied by
6	the base reunification rate for the State for
7	the fiscal year;
8	"(B) \$1,500, multiplied by the amount (if
9	any) by which the sum of the number of special
10	needs adoptions that are not older child adop-
11	tions and the number of special needs guardian-
12	ship placements that are not older child guard-
13	ianship placements for the State for the fiscal
14	year exceeds the sum of—
15	"(i) the number of special needs adop-
16	tions that are not older child adoptions for
17	the State for the fiscal year, multiplied by
18	the base rate of special needs adoptions
19	that are not older child adoptions for the
20	State for the fiscal year; and
21	"(ii) the number of special needs
22	guardianship placements that are not older
23	child guardianship placements for the
24	State for the fiscal year, multiplied by the
25	base rate of special needs guardianship

1	placements that are not older child guard-
2	ianship placements for the State for the
3	fiscal year; and
4	"(C) \$3,000, multiplied by the amount (if
5	any) by which the sum of the number of older
6	child adoptions and the number of older child
7	guardianship placements for the State for the
8	fiscal year exceeds the sum of—
9	"(i) the number of older child adop-
10	tions for the State for the fiscal year,
11	mutiplied by the base older child adoption
12	rate for the State for the fiscal year; and
13	"(ii) the number of older child guard-
14	ianship placements for the State for the
15	fiscal year, mutiplied by the base older
16	child guardianship placement rate for the
17	State for the fiscal year.
18	"(2) Pro rata adjustment if insufficient
19	FUNDS AVAILABLE.—For any fiscal year, if the total
20	amount of permanency incentive payments otherwise
21	payable under this section for a fiscal year exceeds
22	the amount appropriated pursuant to subsection (h)
23	for the fiscal year, the amount of the permanency
24	incentive payment payable to each State under this

section for the fiscal year shall be—

- "(A) the amount of the permanency incentive payment that would otherwise be payable to the State under this section for the fiscal year; multiplied by
- "(B) the percentage represented by the amount so appropriated for the fiscal year, divided by the total amount of permanency incentive payments otherwise payable under this section for the fiscal year.
- 10 "(e) 2-Year Availability of Incentive Pay-
- 11 Ments.—Payments to a State under this section in a fis-
- 12 cal year shall remain available for use by the State
- 13 through the end of the succeeding fiscal year.
- 14 "(f) Limitations on Use of Incentive Pay-
- 15 MENTS.—A State shall not expend an amount paid to the
- 16 State under this section except to provide to children or
- 17 families any service (including post-permanency services)
- 18 that may be provided under part B or E. Amounts ex-
- 19 pended by a State in accordance with the preceding sen-
- 20 tence shall be disregarded in determining State expendi-
- 21 tures for purposes of Federal matching payments under
- 22 sections 423, 434, and 474.
- 23 "(g) Definitions.—In this section:

1	"(1) FOSTER CHILD ADOPTION.—The term
2	'foster child adoption' means, with respect to a State
3	and a fiscal year, a final adoption of a child if—
4	"(A) at the time of adoptive placement, the
5	child was in foster care under the supervision of
6	the State; and
7	"(B) during the fiscal year, the period for
8	which the adoption has lasted has become 12
9	months.
10	"(2) Special needs adoption.—The term
11	'special needs adoption' means, with respect to a
12	State and a fiscal year, a final adoption of a child
13	if—
14	"(A) there is in effect for the child an
15	adoption assistance agreement entered into by
16	the State under section 473;
17	"(B) the child is a child with special needs
18	for purposes of this section; and
19	"(C) during the fiscal year, the period for
20	which the adoption has lasted has become 12
21	months.
22	"(3) OLDER CHILD ADOPTION.—The term
23	'older child adoption' means, with respect to a State
24	and a fiscal year, the final adoption in the State of
25	a child who has attained 9 years of age if—

1	"(A)(i) at the time of the adoptive place-
2	ment, the child was in foster care under the re-
3	sponsibility of the State; or
4	"(ii) an adoption assistance agreement for
5	the child is in effect under section 473 with re-
6	spect to the child; and
7	"(B) during the fiscal year, the period for
8	which the adoption has lasted has become 12
9	months.
10	"(4) Guardianship placement.—The term
11	'guardianship placement' means, with respect to a
12	State and a fiscal year, the placement of a child with
13	a caretaker pursuant to a legal guardianship if—
14	"(A) immediately before the placement, the
15	child had been in foster care under the respon-
16	sibility of the State for no less than 12 months;
17	"(B) the State has determined that neither
18	being returned home nor being adopted is an
19	appropriate permanency option for the child;
20	and
21	"(C) during the fiscal year, the period for
22	which the placement has lasted has become 12
23	months.
24	"(5) Special needs guardianship place-
25	MENT.—The term 'special needs guardianship place-

- 1 ment' means, with respect to a fiscal year, a guard-2 ianship placement, with respect to the fiscal year, of 3 a child with special needs.
 - "(6) OLDER CHILD GUARDIANSHIP PLACE-MENT.—The term 'older child guardianship placement' means, with respect to a State and a fiscal year, a guardianship placement of a child who has attained 9 years of age if, at the time of the guardianship placement, the child was in foster care under the supervision of the State.
 - "(7) REUNIFICATION.—The term 'reunification' means, with respect to a State and a fiscal year, the reuniting of a child who is in foster care under the responsibility of the State with the family from whom the child was removed if—
 - "(A) immediately before the reuniting, the child had been in such care for not less than 1 month; and
 - "(B) during the fiscal year, the period for which the child has remained reunited with the family has become 12 months
 - "(8) FOSTER CHILD ADOPTION RATE.—The term 'foster child adoption rate' means, with respect to a State and a fiscal year, of the children in foster care under the responsibility of the State, the per-

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1	centage who became subject to a foster child adop-
2	tion during the fiscal year.
3	"(9) Base foster child adoption rate.—
4	The term 'base foster child adoption rate' means,
5	with respect to a State and—
6	"(A) fiscal year 2006, the foster child
7	adoption rate for the State for fiscal year 2005;
8	or
9	"(B) any subsequent fiscal year, the foster
10	child adoption rate for the State for the fiscal
11	year for which the rate is the greatest in the
12	period that begins with fiscal year 2005 and
13	ends with the fiscal year preceding that subse-
14	quent fiscal year.
15	"(10) OLDER CHILD ADOPTION RATE.—The
16	term 'older child adoption rate' means, with respect
17	to a State and a fiscal year, of the children in foster
18	care under the responsibility of the State, the per-
19	centage who—
20	"(A) have attained 9 years of age; and
21	"(B) became subject to an older child
22	adoption during the fiscal year.
23	"(11) Base older child adoption rate.—
24	The term 'base older child adoption rate' means,
25	with respect to a State and—

1	"(A) fiscal year 2006, the older child adop-
2	tion rate for the State for fiscal year 2005; and
3	"(B) any subsequent fiscal year, the older
4	child adoption rate for the State for the fiscal
5	year for which the rate is the greatest in the
6	period that begins with fiscal year 2005 and
7	ends with the fiscal year preceding that subse-
8	quent fiscal year.
9	"(12) Guardianship placement rate.—The
10	term 'guardianship placement rate' means, with re-
11	spect to a State and a fiscal year, of the children in
12	foster care under the responsibility of the State, the
13	percentage who became subject to a guardianship
14	placement during the fiscal year.
15	"(13) Base guardianship placement
16	RATE.—The term 'base guardianship placement
17	rate' means, with respect to a State and—
18	"(A) fiscal year 2006, the guardianship
19	placement rate for the State for fiscal year
20	2005; or
21	"(B) any subsequent fiscal year, the
22	guardianship placement rate for the State for
23	the fiscal year for which the rate is the greatest
24	in the period that begins with fiscal year 2005

1	and ends with the fiscal year preceding that
2	subsequent fiscal year.
3	"(14) Older Child Guardianship Place-
4	MENT RATE.—The term 'older child guardianship
5	placement rate' means, with respect to a State and
6	a fiscal year, of the children in foster care under the
7	responsibility of the State, the percentage who—
8	"(A) have attained 9 years of age; and
9	"(B) during the fiscal year, became subject
10	to an older child guardianship placement.
11	"(15) Base older child guardianship
12	PLACEMENT RATE.—The term 'base older child
13	guardianship placement rate' means, with respect to
14	a State and—
15	"(A) fiscal year 2006, the older child
16	guardianship placement rate for the State for
17	fiscal year 2005; or
18	"(B) any subsequent fiscal year, the older
19	child guardianship placement rate for the State
20	for the fiscal year for which the rate is the
21	greatest in the period that begins with fiscal
22	year 2005 and ends with the fiscal year pre-
23	ceding that subsequent fiscal year.
24	"(16) Reunification rate.—The term 'reuni-
25	fication rate' means, with respect to a State and a

1	fiscal year, of the children in foster care under the
2	responsibility of the State, the percentage who be-
3	come subject to a reunification during the fiscal
4	year.
5	"(17) Base reunification rate.—The term
6	'base reunification rate' means, with respect to a
7	State and—
8	"(A) fiscal year 2006, the reunification
9	rate for the State for fiscal year 2005; or
10	"(B) any subsequent fiscal year, the reuni-
11	fication rate for the State for the fiscal year for
12	which the rate is the greatest in the period that
13	begins with fiscal year 2005 and ends with the
14	fiscal year preceding that subsequent fiscal
15	year.
16	"(18) Base rate of special needs adop-
17	TIONS THAT ARE NOT OLDER CHILD ADOPTIONS.—
18	The term 'base rate of special needs adoptions that
19	are not older child adoptions' means, with respect to
20	a State and—
21	"(A) fiscal year 2006, the rate of special
22	needs adoptions that are not older child adop-
23	tions for the State for fiscal year 2005; or
24	"(B) any subsequent fiscal year, the rate
25	of special needs adoptions that are not older

1	child adoptions for the State for the fiscal year
2	for which the rate is the greatest in the period
3	that begins with fiscal year 2005 and ends with
4	the fiscal year preceding that subsequent fiscal
5	year.
6	"(19) Rate of special needs adoptions
7	THAT ARE NOT OLDER CHILD ADOPTIONS.—The
8	term 'rate of special needs adoptions that are not
9	older child adoptions' means, with respect to a State
10	and a fiscal year, of the children in foster care under
11	the responsibility of the State, the percentage who—
12	"(A) are children with special needs;
13	"(B) have not attained 9 years of age; and
14	"(C) during the fiscal year, became subject
15	to a special needs adoption.
16	"(20) Base rate of special needs guard-
17	IANSHIP PLACEMENTS THAT ARE NOT OLDER CHILD
18	GUARDIANSHIP PLACEMENTS.—The term 'base rate
19	of special needs guardianship placements that are
20	not older child guardianship placements' means,
21	with respect to a State and—
22	"(A) fiscal year 2006, the rate of special
23	needs guardianship placements that are not
24	older child guardianship placements for the
25	State for fiscal year 2005; or

1 "(B) any subsequent fiscal year, the rate
2 of special needs guardianship placements that
3 are not older child guardianship placements for
4 the State for the fiscal year for which the rate
5 is the greatest in the period that begins with
6 fiscal year 2005 and ends with the fiscal year
7 preceding that subsequent fiscal year.

"(21) CHILD WITH SPECIAL NEEDS.— For purposes of this section, a child shall not be considered a child with special needs unless—

"(A) the State has determined that the child cannot or should not be returned to the home of his parents; and

"(B) the State had first determined that there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with 'adoptive parents or' a guardian without providing medical assistance under title XIX.

1 "(h) Limitations on Authorization of Appro-2 priations.—

- "(1) IN GENERAL.—For grants under subsection (a), there are authorized to be appropriated to the Secretary \$43,000,000 for each of fiscal years 2006 through 2008.
- 7 "(2) AVAILABILITY.—Amounts appropriated 8 under paragraph (1), or under any other law for 9 grants under subsection (a), are authorized to re-10 main available until expended, but not after fiscal 11 year 2008.

12 "(i) TECHNICAL ASSISTANCE.—

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- "(1) IN GENERAL.—The Secretary may, directly or through grants or contracts, provide technical assistance to assist States and local communities to reach their targets for increased rates of adoptions, guardianships, and reunifications for children in foster care.
 - "(2) DESCRIPTION OF THE CHARACTER OF THE TECHNICAL ASSISTANCE.—The technical assistance provided under paragraph (1) may support the goal of encouraging more adoptions out of the foster care system when adoptions promote the best interests of children, and more permanency placements of other kinds out of the foster care system when such other

1	kinds of placements promote the best interests of
2	children, and may include the following:
3	"(A) The development of best practice
4	guidelines for expediting termination of paren-
5	tal rights.
6	"(B) Models to encourage the use of con-
7	current planning.
8	"(C) The development of specialized units
9	and expertise in moving children toward adop-
10	tion, guardianship, or reunification as a perma-
11	nency goal through the use of established best
12	practices in these areas.
13	"(D) The development of risk assessment
14	tools to facilitate early identification of the chil-
15	dren who will be at risk of harm if returned
16	home.
17	"(E) Models to encourage the fast tracking
18	of children who have not attained 1 year of age
19	into pre-adoptive placements.
20	"(F) Development of programs that place
21	children into pre-adoptive families without wait-
22	ing for termination of parental rights.
23	"(3) Targeting of technical assistance
24	TO THE COURTS.—Not less than 50 percent of any
25	amount appropriated pursuant to paragraph (4)

- shall be used to provide technical assistance to the courts.
- 3 "(4) Limitations on authorization of ap-
- 4 PROPRIATIONS.—To carry out this subsection, there
- 5 are authorized to be appropriated to the Secretary
- 6 not to exceed \$10,000,000 for each of fiscal years
- 7 2006 and 2007.".
- 8 (b) Determination of Whether AFCARS Can
- 9 BE USED TO PROVIDE DATA NECESSARY FOR CALCU-
- 10 Lating Permanency Incentive Payments; Author-
- 11 ITY TO PRESCRIBE ADDITIONAL REGULATIONS IF RE-
- 12 QUIRED.—The Secretary shall determine whether the sys-
- 13 tem established pursuant to section 479 of the Social Se-
- 14 curity Act is capable of being used to collect the data nec-
- 15 essary to enable permanency incentive payments to be cal-
- 16 culated under section 473A of such Act in a timely man-
- 17 ner, and if not, the Secretary shall prescribe such regula-
- 18 tions as may be necessary to make the system so capable.
- 19 (c) Effective Date.—The amendment made by
- 20 subsection (a) shall take effect on October 1, 2005.

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